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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,448	05/30/2000	Scott Andrew Snyder	051638-5001-02	2465
7278	7590	10/24/2005	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			SUBRAMANIAN, NARAYANSWAMY	
			ART UNIT	PAPER NUMBER
			3624	
DATE MAILED: 10/24/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/580,448	SNYDER, SCOTT ANDREW	
	<b>Examiner</b>	<b>Art Unit</b>	
	Narayanswamy Subramanian	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 01 August 2005.

2a) This action is **FINAL**.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16, 18-22, 25-40, 42, 45 and 54-75 is/are pending in the application.

4a) Of the above claim(s) 54-67 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 68-75 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This office action is in response to applicants' request for continued examination filed on August 1, 2005. Amendments to claims 1, 10, 26 and 34 and cancellation of claims 17, 23, 24, 41, 43 and 44 and addition of new claims 54-75 have been entered. Claims 1-16, 18-22, 25-40, 42, 45 and 54-75 are pending in the application. Claims 54-67 are withdrawn from consideration as discussed below. Claims 68-75 are subject to election/species as discussed below. Applicant is respectfully requested to cancel the withdrawn non-elected claims 46-53 and 54-67 in response to this office action. The response to amendment and election/species are stated below.

#### *Response to Amendment*

2. Newly submitted claims 54-67 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claims 1-45 that were examined in the past office actions are drawn to a method and system for assisting a customer in choosing a combination of commodity options, wherein said combination has at least two commodity categories and each commodity category has at least two options. The new claims 54-67 are drawn to a method and a computer readable medium for assisting a customer in choosing communication services and products. The preamble and the steps of the new claims are clearly different from those of the claims that were already examined in earlier office actions. Hence the scope and utility of the two inventions are clearly different and distinct from each other. Because these inventions are distinct for the reasons given above and the search required for claims 1-45 is different from that required for claims 54-67, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented

invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 54-67 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03. Applicant is respectfully requested to cancel the withdrawn non-elected claims 46-53 and 54-67 in response to this office action.

*Election/Restrictions*

3. The originally presented invention in view of the newly added claims 68-75 contains claims directed to the following patentably distinct species of the claimed elected invention:

The following claims are directed to different species of the generic feature of optimization parameter as discussed below.

Specie 1A      Claims 68 and 72

Specie 1B      Claims 69 and 73

Specie 1C      Claims 70 and 74

Specie 1D      Claims 71 and 75

4. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 26 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (571) 272-6747. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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N. Sub

Dr. N. Subramanian  
October 18, 2005